

Draft Environmental Assessment

Thompson-Fisher Conservation Easement Amendment

February 2019



Draft Environmental Assessment MEPA, NEPA, MCA 23-1-110 CHECKLIST

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of proposed state action:** Montana Fish, Wildlife & Parks (FWP) proposes to amend the Thompson-Fisher Conservation Easement (CE) by removing 1.63 acres of developed land and replacing it with 5 acres of undeveloped, upland and riparian habitat along the Little Thompson River (Figure 1).
2. **Agency authority for the proposed action:** FWP is authorized by State law (§ 87-1-209, MCA) to purchase land in fee title or conservation easement in order to protect fish and wildlife habitat. The Montana Fish and Wildlife Commission is the decision-making authority for matters concerning acquisition of conservation easements or other interest in land proposed by FWP. The following laws and rules are applicable for this proposed action:
 - The Habitat Montana program authorized by Montana Code Annotated (MCA) § 87-1-241 (accompanying regulations found at Admin. R. Mont.12.9.509) seeks to conserve Montana's wildlife populations and natural ecological systems. Habitat Montana funded land projects are also intended to: 1) conserve land, water, and wildlife; 2) contribute to hunting and fishing opportunities; 3) contribute to non-hunting recreation; 4) protect open space and scenic areas; 5) promote wildlife habitat-friendly agriculture; and 6) maintain the local tax base through continued payments of property taxes.
 - FWP has the authority to acquire land or interests in easement upon lands (§ 87-1-MCA 209) that are suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection; for public hunting, fishing, or trapping areas; and for state parks and outdoor recreation.
 - State statute § 76-6-201 through 204 authorizes the use of conservation easements, describes the duration, and permissible types of easement.
 - FWP Conservation Easement Amendments/Restatements Policy No. 11-24-09, establishes the acceptable requirements and procedures for amending/re-stating conservation easements (CE).
3. **Anticipated Schedule:**

Public comment period: February 13 – March 15, 2019
Decision notice published: March 22, 2019
Review by FWP Fish and Wildlife Commission: April 25, 2019

4. **Location affected by proposed action:** Sanders County
Township 24N Range 27W, Township 23N Range 27W, Township 23N Range 26W, Township 22N Range 26W
See Figure 1 for location map.

5. **Project size -- estimate the number of acres that would be directly affected that are currently:**

| | <u>Acres</u> | | <u>Acres</u> |
|-----------------------|--------------|--------------------|--------------|
| (a) Developed: | | (d) Floodplain | <u>0</u> |
| Residential | <u>0</u> | | |
| Industrial | <u>0</u> | (e) Productive: | |
| (existing shop area) | | Irrigated cropland | <u>0</u> |
| (b) Open Space/ | <u>2.5</u> | Dry cropland | <u>0</u> |
| Woodlands/Recreation | | Forestry | <u>0</u> |
| (c) Wetlands/Riparian | <u>2.5</u> | Rangeland | <u>0</u> |
| Areas | | Other | <u>0</u> |

6. **Permits, Funding & Overlapping Jurisdiction.**

- (a) **Permits:** No permits are needed to implement the proposed action.
- (b) **Funding:** The proposed action does not require any funding from FWP.
- (c) **Other Overlapping or Additional Jurisdictional Responsibilities:** The Montana Department of Natural Resources and Conservation (DNRC) will be acquiring the Weyerhaeuser land removed from the CE through their land acquisition process.

7. **Narrative summary of the proposed action:**

Montana Fish, Wildlife & Parks (FWP) proposes to remove 1.63 acres of developed land from the Thompson-Fisher CE and replace it with 5 acres of undeveloped, upland and riparian habitat along the Little Thompson River (Figures 1 and 2). This land exchange and accompanying CE amendment would resolve an encroachment issue on the CE land. The developed land on the CE involves seven different parcels of State School Trust Land managed by DNRC. Each parcel is adjacent to the conservation easement and lies within the Thompson River valley. The DNRC parcels are leased for cabin sites and they include various structures or other improvements that encroach onto the CE. Weyerhaeuser has agreed to remove the 1.63 acres of developed land from the easement and add 5 acres of undeveloped land which is adjacent to existing CE land, for a net gain to the easement property of 3.37 acres. The 5-acre parcel to be added to the CE is currently managed by Weyerhaeuser as forestland and this proposal will ensure that it will be managed in the same manner in the future. No immediate changes in land use

would occur because of this amendment either on the land removed from or added to the CE. No money would be exchanged to complete the proposed amendment.

FWP was aware of structures associated with two of these cabin leases by DNRC that encroached on the land while the CE was being negotiated in 1999. The conservation easement documented and allowed these two encroached areas on the conservation easement lands. In 2009, following a new land survey, an additional five leases were discovered to be encroaching on the CE area. All the encroachment from the DNRC owned parcels occurred based on an old land survey that incorrectly showed the timber company land to be DNRC land. Weyerhaeuser, DNRC, and FWP have been working together for the last decade to come to an equitable solution to this land survey mistake. Weyerhaeuser did not want to accept the liability associated with having these improvements on their land, DNRC and the cabin lessees did not want to solely bear the brunt of this mistake by having to remove the improvements and structures, and FWP could not ignore the violation of the non-development conservation easement. Many solutions to the problem were considered, but the only option that worked for all parties involved removing the developed parcels from the CE so that Weyerhaeuser and DNRC can resolve the encroachment issue without being constrained by FWP's CE. FWP could not give up the conservation easement values on the encroached land without compensation in-kind. The proposed addition of the 5 acres will provide the needed in-kind compensation.

8. Description and analysis of reasonable alternatives:

Alternative A: No Action

Under the No Action alternative, the developed land would remain in the CE and no additional acreage would become part of the easement area.

Alternative B: Proposed Action

Under the Proposed Action alternative, the Thompson Fisher CE would be amended to remove 1.63 acres of developed land and replace it with 5 acres of undeveloped, riparian and upland habitat along the Little Thompson River.

9. Evaluation and listing of mitigation, stipulation, or other control measures enforceable by the agency or another government agency: This CE was purchased with funds granted from the U.S. Forest Service through the Forest Legacy Program. FWP has been working closely with the Forest Service to meet their program requirements for this amendment.

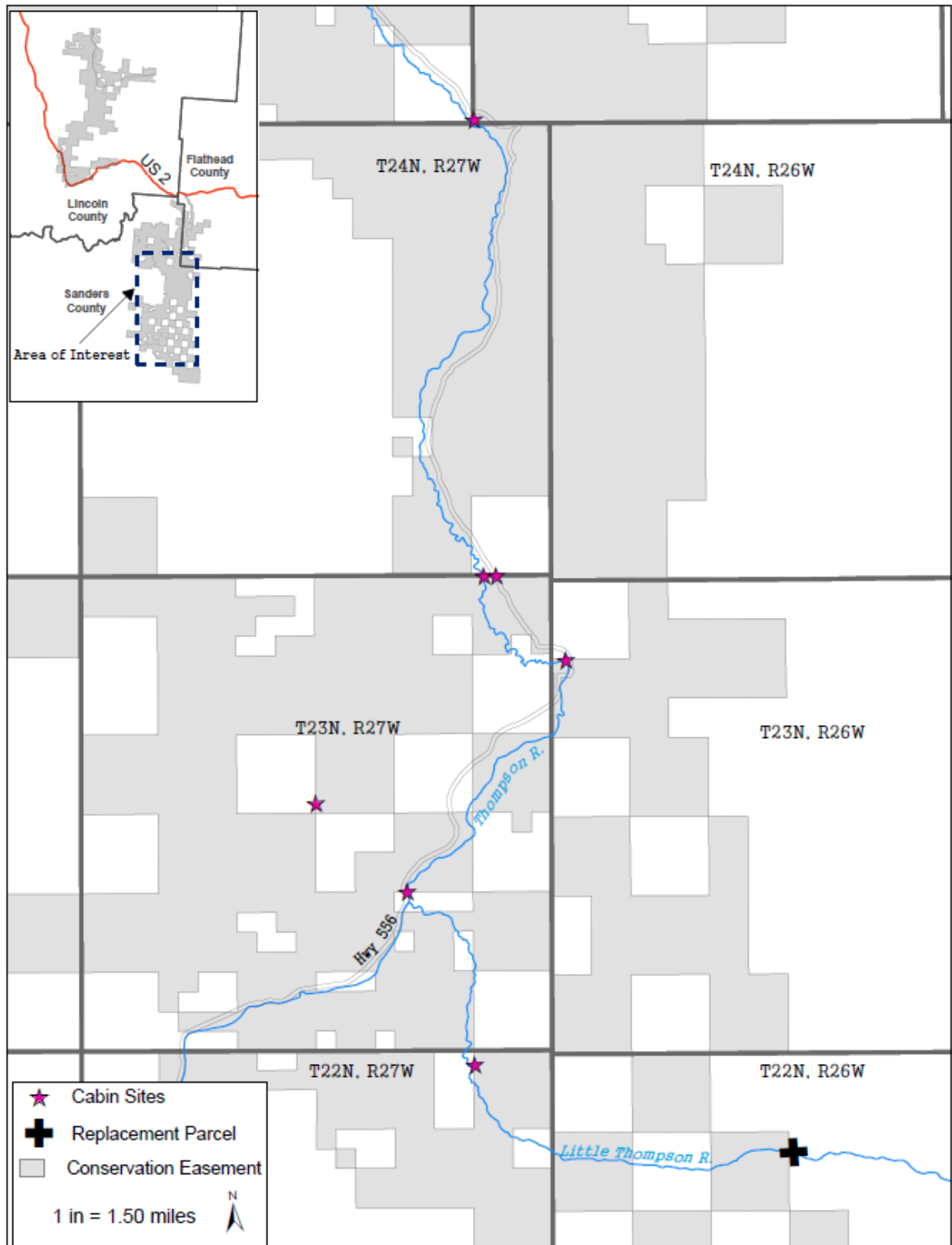


Figure 1. Map of the Thompson-Fisher Conservation Easement with the location of the encroached areas (cabin sites) to be removed from the easement as well as the 5-acre parcel to be added to easement.

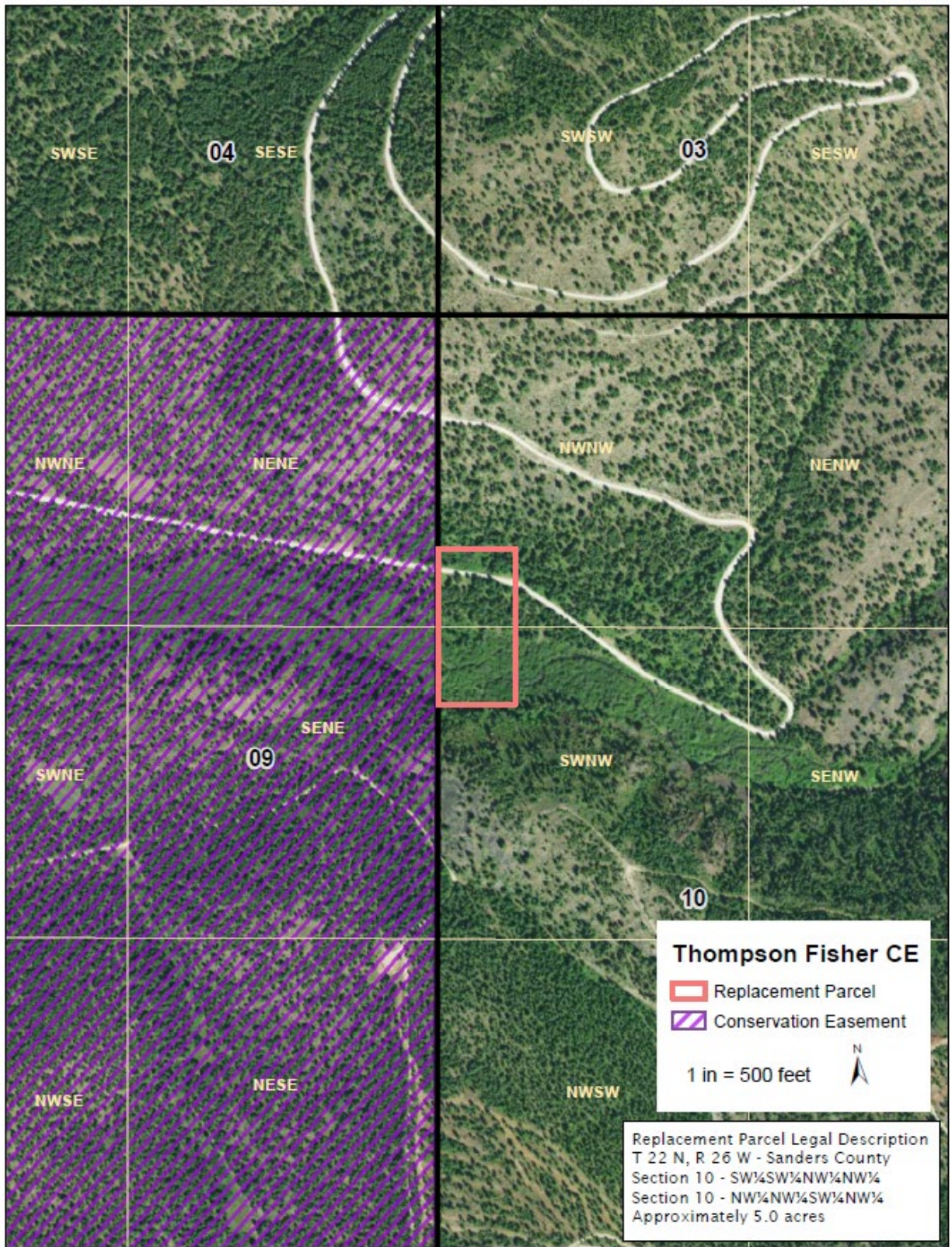


Figure 2. Detail of the 5-acre parcel located along the Little Thompson River that is proposed to be added to the Thompson-Fisher Conservation Easement.

PART II. ENVIRONMENTAL REVIEW CHECKLIST

Under the **No Action** alternative, the acreage of the Thompson-Fisher CE would not change and the developed land would remain part of the easement area. Weyerhaeuser will continue to have a trespass and liability issue on their property and FWP will continue to have a violation of its no-development CE. Weyerhaeuser and DNRC would have to find another strategy to address the structures on Weyerhaeuser property and the various issues associated with them.

Evaluation of the impacts of the Proposed Action including secondary and cumulative impacts on the Physical and Human Environment.

A. PHYSICAL ENVIRONMENT

| 1. <u>LAND RESOURCES</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Soil instability or changes in geologic substructure? | | X | | | | |
| b. Disruption, displacement, erosion, compaction, moisture loss, or over-covering of soil, which would reduce productivity or fertility? | | X | | | | |
| c. Destruction, covering or modification of any unique geologic or physical features? | | X | | | | |
| d. Changes in siltation, deposition or erosion patterns that may modify the channel of a river or stream or the bed or shore of a lake? | | X | | | | |
| e. Exposure of people or property to earthquakes, landslides, ground failure, or other natural hazard? | | X | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser. Under the terms of the CE, the property cannot be developed, so there will be no additional impacts to land resources in the future.

| 2. <u>AIR</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Emission of air pollutants or deterioration of ambient air quality? (Also see 13 (c).) | | X | | | | |
| b. Creation of objectionable odors? | | X | | | | |
| c. Alteration of air movement, moisture, or temperature patterns or any change in climate, either locally or regionally? | | X | | | | |
| d. Adverse effects on vegetation, including crops, due to increased emissions of pollutants? | | X | | | | |
| e. For P-R/D-J projects, will the project result in any discharge, which will conflict with federal or state air quality regulations? (Also see 2a.) | | N/A | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser, so there will be no additional impacts to air resources.

N/A – not applicable (this abbreviation used throughout the document)

| 3. <u>WATER</u> Will the proposed action result in: | IMPACT | | | | | |
|---|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Discharge into surface water or any alteration of surface water quality including but not limited to temperature, dissolved oxygen or turbidity? | | X | | | | |
| b. Changes in drainage patterns or the rate and amount of surface runoff? | | X | | | | |
| c. Alteration of the course or magnitude of floodwater or other flows? | | X | | | | |
| d. Changes in the amount of surface water in any water body or creation of a new water body? | | X | | | | |
| e. Exposure of people or property to water related hazards such as flooding? | | X | | | | |
| f. Changes in the quality of groundwater? | | X | | | | |
| g. Changes in the quantity of groundwater? | | X | | | | |
| h. Increase in risk of contamination of surface or groundwater? | | X | | | | |
| i. Effects on any existing water right or reservation? | | X | | | | |
| j. Effects on other water users as a result of any alteration in surface or groundwater quality? | | X | | | | |
| k. Effects on other users as a result of any alteration in surface or groundwater quantity? | | X | | | | |
| l. For P-R/D-J, will the project affect a designated floodplain? (Also see 3c.) | | N/A | | | | |
| m. For P-R/D-J, will the project result in any discharge that will affect federal or state water quality regulations? (Also see 3a.) | | N/A | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser. Under the terms of the CE, the property cannot be developed, so there will be no additional impacts to water resources in the future from potential future development.

| 4. <u>VEGETATION</u> Will the proposed action result in? | IMPACT | | | | | |
|--|---------------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Changes in the diversity, productivity or abundance of plant species (including trees, shrubs, grass, crops, and aquatic plants)? | | X | | | | |
| b. Alteration of a plant community? | | X | | | | |
| c. Adverse effects on any unique, rare, threatened, or endangered species? | | X | | | | |
| d. Reduction in acreage or productivity of any agricultural land? | | X | | | | |
| e. Establishment or spread of noxious weeds? | | X | | | | |
| f. For P-R/D-J, will the project affect wetlands, or prime and unique farmland? | | N/A | | | | |
| g. Other: | | X | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser. Weyerhaeuser will continue to manage noxious weeds on the property and will manage the forest and riparian communities consistent with the existing management plan.

| 5. <u>FISH/WILDLIFE</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Deterioration of critical fish or wildlife habitat? | | X | | | | |
| b. Changes in the diversity or abundance of game animals or bird species? | | X | | | | |
| c. Changes in the diversity or abundance of nongame species? | | X | | | | |
| d. Introduction of new species into an area? | | X | | | | |
| e. Creation of a barrier to the migration or movement of animals? | | X | | | | |
| f. Adverse effects on any unique, rare, threatened, or endangered species? | | X | | | | |
| g. Increase in conditions that stress wildlife populations or limit abundance (including harassment, legal or illegal harvest or other human activity)? | | X | | | | |
| h. For P-R/D-J, will the project be performed in any area in which T&E species are present, and will the project affect any T&E species or their habitat? (Also see 5f.) | | N/A | | | | |
| i. For P-R/D-J, will the project introduce or export any species not presently or historically occurring in the receiving location? (Also see 5d.) | | N/A | | | | |

Adding the 5-acre parcel to the Conservation Easement property under the Proposed Action will maintain the status quo for the property and will have no impacts to fish or wildlife resources in the area.

B. HUMAN ENVIRONMENT

| 6. <u>NOISE/ELECTRICAL EFFECTS</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Increases in existing noise levels? | | X | | | | |
| b. Exposure of people to serve or nuisance noise levels? | | X | | | | |
| c. Creation of electrostatic or electromagnetic effects that could be detrimental to human health or property? | | X | | | | |
| d. Interference with radio or television reception and operation? | | X | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser. There will be no additional impact to noise or electrical effects if the 5-acre parcel is added to the Thompson-Fisher CE.

| 7. <u>LAND USE</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Alteration of or interference with the productivity or profitability of the existing land use of an area? | | | X | | | 7a. |
| b. Conflicted with a designated natural area or area of unusual scientific or educational importance? | | X | | | | |
| c. Conflict with any existing land use whose presence would constrain or potentially prohibit the proposed action? | | X | | | | |
| d. Adverse effects on or relocation of residences? | | X | | | | |

7a. Under the Proposed Action, no immediate impact will occur to profitability of the land as the current use of the land will not change. In the future, it is possible revenue could be lost due to the CE restricting development of the parcel, though the parcel is remote enough that future development potential is likely to be low.

| 8. <u>RISK/HEALTH HAZARDS</u> Will the proposed action result in: | IMPACT | | | | | |
|---|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Risk of an explosion or release of hazardous substances (including, but not limited to oil, pesticides, chemicals, or radiation) in the event of an accident or other forms of disruption? | | X | | | | |
| b. Affect an existing emergency response or emergency evacuation plan, or create a need for a new plan? | | X | | | | |
| c. Creation of any human health hazard or potential hazard? | | X | | | | |
| d. For P-R/D-J, will any chemical toxicants be used? (Also see 8a) | | N/A | | | | |

Under the Proposed Action, the land added to the CE will be managed as it currently is by Weyerhaeuser. There will be no additional risks or health hazards associated with the addition of the 5-acre parcel to the CE property.

| 9. <u>COMMUNITY IMPACT</u> Will the proposed action result in: | IMPACT | | | | | |
|--|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Alteration of the location, distribution, density, or growth rate of the human population of an area? | | X | | | | |
| b. Alteration of the social structure of a community? | | X | | | | |
| c. Alteration of the level or distribution of employment or community or personal income? | | X | | | | |
| d. Changes in industrial or commercial activity? | | X | | | | |
| e. Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods? | | X | | | | |

Under the Proposed Action, the 5-acre parcel to be added to the CE property is remote and restricting development on it will have no impacts to existing communities. The property will continue to be managed for forestry purposes so there will be no impacts to level of employment, commercial activities, or an increase in traffic.

| 10. <u>PUBLIC SERVICES/TAXES/UTILITIES</u> Will the proposed action result in: | IMPACT | | | | | |
|---|----------------|-------------|--------------|--------------------------------|--------------------------------|----------------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Will the proposed action have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? If any, specify: | | X | | | | |
| b. Will the proposed action have an effect upon the local or state tax base and revenues? | | X | | | | |
| c. Will the proposed action result in a need for new facilities or substantial alterations of any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications? | | X | | | | |
| d. Will the proposed action result in increased use of any energy source? | | X | | | | |
| e. Define projected revenue sources | | | | | | 10e. |
| f. Define projected maintenance costs. | | | | | | 10f. |

Under the Proposed Action, there will be no impacts to public services, taxes, or utilities. Weyerhaeuser will continue to pay taxes on the parcel to be added to the CE and no development will occur on the parcel which will eliminate any need for future public infrastructure.

10e. and 10f. Under the Proposed Action, Weyerhaeuser will continue to own and manage the added 5-acre parcel so FWP will not receive any revenue or be subject to any additional maintenance costs from this parcel.

| 11. <u>AESTHETICS/RECREATION</u> Will the proposed action result in: | IMPACT | | | | | |
|---|----------------|-------------|--------------|--------------------------------|--------------------------------|----------------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Alteration of any scenic vista or creation of an aesthetically offensive site or effect that is open to public view? | | X | | | | |
| b. Alteration of the aesthetic character of a community or neighborhood? | | X | | | | |
| c. Alteration of the quality or quantity of recreational/tourism opportunities and settings? (Attach Tourism Report.) | | X | | | | |
| d. For P-R/D-J, will any designated or proposed wild or scenic rivers, trails or wilderness areas be impacted? (Also see 11a, 11c.) | | N/A | | | | |

Under the Proposed Action, there will be no impacts to aesthetics or recreation in the area. The 5-acre parcel to be added to the CE property has no exceptional scenic vistas and is a small, isolated parcel that will not affect any communities or significantly contribute to recreation/tourism.

| 12. <u>CULTURAL/HISTORICAL RESOURCES</u> Will the proposed action result in: | IMPACT | | | | | |
|---|----------------|-------------|--------------|--------------------------------|--------------------------------|----------------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Destruction or alteration of any site, structure or object of prehistoric historic, or paleontological importance? | | X | | | | |
| b. Physical change that would affect unique cultural values? | | X | | | | |
| c. Effects on existing religious or sacred uses of a site or area? | | X | | | | |
| d. For P-R/D-J, will the project affect historic or cultural resources? Attach SHPO letter of clearance. (Also see 12.a.) | | N/A | | | | |

Under the Proposed Action, there will be no impacts to cultural or historical resources because there will be no changes in land use.

SIGNIFICANCE CRITERIA

| 13. <u>SUMMARY EVALUATION OF SIGNIFICANCE</u> Will the proposed action, considered as a whole: | IMPACT | | | | | |
|---|---------|------|-------|-------------------------|-------------------------|---------------|
| | Unknown | None | Minor | Potentially Significant | Can Impact Be Mitigated | Comment Index |
| a. Have impacts that are individually limited, but cumulatively considerable? (A project or program may result in impacts on two or more separate resources that create a significant effect when considered together or in total.) | | X | | | | |
| b. Involve potential risks or adverse effects, which are uncertain but extremely hazardous if they were to occur? | | X | | | | |
| c. Potentially conflict with the substantive requirements of any local, state, or federal law, regulation, standard or formal plan? | | X | | | | |
| d. Establish a precedent or likelihood that future actions with significant environmental impacts will be proposed? | | X | | | | |
| e. Generate substantial debate or controversy about the nature of the impacts that would be created? | | X | | | | |
| f. For P-R/D-J, is the project expected to have organized opposition or generate substantial public controversy? (Also see 13e.) | | N/A | | | | |
| g. For P-R/D-J, list any federal or state permits required. | | N/A | | | | |

Under the Proposed Action there are no expected cumulative impacts on any resources because the proposed amendment will not change current land uses.

PART III. NARRATIVE EVALUATION AND COMMENT

This analysis did not reveal any significant impacts to the human or physical environment from the Proposed Action. The 5-acre parcel to be added to the Thompson-Fisher CE will continue to be managed by Weyerhaeuser as timber land and development will not occur on the parcel in the future. Any changes to this parcel in the foreseeable future are minimal to non-existent.

PART IV. PUBLIC PARTICIPATION

1. Public involvement:

The public will be notified in the following manners to comment on this current EA, the proposed action and alternatives:

- Two public notices in each of these papers: Daily Inter Lake, Flathead Beacon, Sanders County Ledger, The Western News, Clark Fork Valley Press
- Public notice on the Fish, Wildlife & Parks web page: <http://fwp.mt.gov>.

Copies of this environmental assessment will be distributed to the neighboring landowners and interested parties to ensure their knowledge of the proposed project.

This level of public notice and participation is appropriate for a project of this scope having limited, if any, impacts.

2. Duration of comment period:

The public comment period will extend for (30) thirty days. Written comments will be accepted until 5:00 p.m. on March 15, 2019 and can be mailed or emailed to the addresses below:

Montana Fish, Wildlife and Parks
Attn: Kris Tempel – Thompson-Fisher EA
490 N. Meridian Rd.
Kalispell, MT 59901
ktempel@mt.gov

PART V. EA PREPARATION

1. Based on the significance criteria evaluated in this EA, is an EIS required? (YES/NO)?

No, an EIS is not required.

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action.

Based on an evaluation of impacts to the physical and human environment under MEPA, this environmental review revealed no significant impacts from the Proposed Action; therefore, an environmental assessment is deemed to be the appropriate level of analysis.

- 2. Person(s) responsible for preparing the EA:**
Kris Tempel, Habitat Conservation Biologist, Kalispell
Alan Wood, Science Program Supervisor, Kalispell
Kevin League, Conservation Easement Stewardship Manager, Helena
- 3. List of agencies or offices consulted during preparation of the EA:**
Montana Department of Natural Resources and Conservation
Weyerhaeuser